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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,707	03/22/2004	Henri Brisebois	CAN-5004-USANP	8754
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PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			EXAMINER WOLLSCHLAGER, JEFFREY MICHAEL	
			ART UNIT	PAPER NUMBER
			1791	
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			07/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/805,707	Applicant(s) BRISEBOIS ET AL.	
	Examiner JEFFREY WOLLSCHLAGER	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-28 and 32-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-28 and 32-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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3DETAILED ACTION

Response to Amendment

Applicant's amendment filed May 15, 2008 has been entered. Claims 25-28 and 32-40 are pending and under examination. Claims 1-24 and 29-31 have been canceled.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 25-28, 34-36, 39 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (US 4,159,677).

Regarding claims 25-28, 34-36, 39 and 40, Smith discloses a rotary embossing roll 10 having a plurality of embossing segments 66 and 68 including projections for substantially simultaneously engaging material 82. The pattern of projections include various spacing, sizes and shapes (Figures 4-7, elements (76) (72) (74)). The pattern repeats across and around the roll spirally. Various fields extending parallel to the axis of rotation can be defined around the roll having a substantially constant contact area and having the required plurality of projections and spaced zones. With a relatively constant contact area within each field, the pressure applied to each field will be substantially equal.

Claims 25-28 and 32-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Amend et al. (U.S. Patent Application Publication 2003/0183053; published October 2, 2003; filed March 28, 2002).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claim 25, Amend et al. (hereafter Amend) teach a method of impressing a material at a plurality of discrete locations in the manufacture of an article comprising (Abstract): providing a die having a plurality of fields where each field has at least two projections arranged to engage the material substantially simultaneously; applying in succession each of said plurality of fields of projections to the surface of the material such as to apply a compressive force to the surface where the projections in each field define a total contact area over which the compressive force is applied; the total contact area of the projections in each field being such that the pressure applied by each individual field is not more than double the pressure applied by any other individual field (paragraphs [0003, 0007, 0015, 0016, 0037, 0055-0057]; Figures 5-8). Further, Amend discloses creating cross-hatched projections/zones to control the contact area (Figure 5; paragraphs [0048-0051]).

As to claim 26, Amend teaches the pressure is to be the same (paragraph [0003]).

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As to claims 27, 28 and 34, Amend teaches the projections of the different fields are arranged on the die to engage the material at different times (Figure 1a) and the die is a rotary die with the projections generally parallel to the axis of rotation (paragraph [0031]).

As to claims 32 and 33, the fields taught by Amend define a sealing pattern for impressing the material of the article to form a peripheral seal wherein the sealing pattern forms a sanitary napkin and a sanitary napkin flap (Figures 6-7).

As to claim 35, Amend teaches the spacing between the projections is chosen to apply a selected embossing pressure to the impressed article at the desired location (paragraph [0057]). As such, this requires different spacing to achieve the desired embossed affect between the adjacent fields (Figure 8).

As to claim 36, Amend teaches the different fields have different individual contact areas to achieve the desired embossed affect (paragraph [0057])

As to claims 37 and 38, Amend teaches that fluid-pervious and liquid-impervious materials may be employed and impressed to form seals joining the layers (paragraph [0059]).

As to claims 39 and 40, Amend teaches applying substantially equal pressure to each field (paragraphs [0003, 0016]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 32, 33, 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 4,159,677), as applied to claims 25-28, 34-36, 39 and 40 above, in view of Weiher et al. (US 2005/0035492).

As to claims 32, 33, 37 and 38, Smith teaches the method set forth above. Smith does not teach embossing a sealing pattern to form a peripheral seal around a sanitary napkin having a plurality of layers as claimed. However, Weiher et al. teach employing an embossing roll to emboss articles such sanitary napkins having a plurality of impervious and barrier layers (paragraph [0002, 0023-0024]).

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have combined the teaching of Smith and Weiher et al. and to have employed Smith's embossing roller to produce various sealed articles including articles having a plurality of layers or a sanitary napkin, as suggested by Weiher et al., for the purpose of employing Smith's embossing roller in an art recognized suitable application.

Response to Arguments

Applicant's arguments filed May 14, 2008 have been considered, but they are not persuasive. Applicant argues that only embossing designs 76 of Smith contact the material and embossing designs 76 do not have two distinct projections as required by claim 25. This argument is not persuasive. The examiner submits that the claim does not require embossing

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design 76 to have two distinct projections. The claim requires the "field" to have two distinct projections. In accord with the requirement of the field set forth in the claim such that "each field [is] arranged to engage the material substantially simultaneously" the examiner submits that the projections from a plurality of embossing designs 76 are within a given field (Figure 1) and as such there are at least two distinct projections in each "field" of Smith. The examiner further notes that this interpretation appears to be the same interpretation employed by applicant in the instant disclosure (Figure 5) and in the instant claims (e.g. claim 28).

Applicant argues that Amend et al. do not teach all the limitations of claim 25. Applicant argues that Amend et al. do not teach the spaced zones as claimed in combination with the other elements required in claim 25. This argument is not persuasive. The examiner submits that there are various ways one could interpret the claim such that it is met by Amend et al. As an initial matter the examiner notes that both the inventive concept of the instant application and of Amend et al. are directed to methods of modifying the contact area of rotary dies to control the applied pressure. Further, both the instant application and Amend et al. are intended for use in the production of sanitary napkins. Regarding the claims and the spaced zones, the examiner notes that in one interpretation, the spaced zones disclosed by Amend are not in the bearer ring 20. For example, in Figure 10, there are various transverse fields that can be identified, in view of the multiple points of contact shown in this figure, wherein a plurality of spaced projections exist and spaced zones may be identified within the field wherein more than one projection would exist having spacing between these projections. Alternatively, in Figure 10, each bearer ring having the notches shown in the middle of the figure could reasonably be interpreted as being a spaced zone having 3 spaced projections that would substantially simultaneously make contact. Further, regarding the cross hatching disclosed by Amend et al., Amend et al. teach the cross hatching is utilized to control contact area (e.g. claims 5 and 13).

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As such, the cross hatching has portions that make contact and portions that do not make contact.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY WOLLSCHLAGER whose telephone number is (571)272-8937. The examiner can normally be reached on Monday - Thursday 6:45 - 4:15, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. W./
Examiner, Art Unit 1791

July 30, 2008

/Monica A Huson/
Primary Examiner, Art Unit 1791